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Application No.: 09/804,819

Inventor(s): PIOTROWSKI, Robert David, et al.

Filed: March 13, 2001

Docket No.: 7984

Confirmation No.: 2044

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- 1) Appellant's Reply Brief (5 pages)
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P&G Case 7984

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of :
PIOTROWSKI, Robert David, et al. : Confirmation No. 2044
Serial No. 09/804,819 : Group Art Unit 3722
Filed March 13, 2001 : Examiner Monica Smith Carter

For METHODS FOR DIRECTING CONSUMERS TO PREFERRED COFFEE SELECTION

APPELLANT'S REPLY BRIEF

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Dear Sir:

Appellants hereby reply to the Examiner's Answer mailed on September 4, 2007.

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STATUS OF CLAIMS

Claims 1-11, 16, 17, 20-30, 32, 33, 53-63, 65, and 66 are the subject of this appeal. No other claims are pending or allowed. All other Claims were cancelled during prosecution. Claims 1-11, 16, 17, 20-30, 32, 33, 53-63, 65, and 66 were finally rejected in the Final Office Action dated January 28, 2003.

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GROUND OF REJECTION TO BE REVIEWED ON APPEAL

In addition to the grounds from the previous briefs, a new ground of rejection was presented by the Examiner in the EXAMINER'S ANSWER of September 4, 2007, to wit: whether the specification is enabling for reasonably directing a consumer to purchase one or more of the beverage products disclosed in the specification.

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ARGUMENTS

The Examiner has issued a new ground of rejection under 35 USC § 112. Specifically, Claims 1-66 are rejected under 35 USC § 112, first paragraph, because, according to the EXAMINER'S ANSWER, "the specification, while enabling for directing a consumer to one or more types of beverage items, does not reasonably provide enablement for directing a consumer to purchase one or more of the beverage products." Further, the Answer states that "the specification, which contains subjective criteria, does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected [*sic*] to purchase a beverage from the variety of selections."

The Appellants respectfully traverse the new grounds of rejection under 35 USC § 112. In essence, the Answer is stating that the specification does not reasonably provide enablement for directing a consumer to purchase one or more of the beverage products from the variety of selections. Appellants submit that throughout the specification, and in the claims themselves, enablement is provided for directing a consumer to purchase one or more of the beverage products from the variety of selections. For example on page 11, lines 18-21, the specification recites "The method herein utilizes self-characterization cues to allow the consumer to view the cues at the point of purchase and then select the type of coffee represented by the cues that the consumer thinks most accurately describes the consumer's desired coffee experience." Thus, according to methods of the present invention, self-characterization cues are presented at the point of purchase. The consumer views the cues, at the point of purchase, and then selects the type of coffee that the consumer thinks most accurately described the consumer's desired coffee experience. Therefore, the consumer selects a coffee at the point of purchase. This selection by a consumer at the point of purchase is enabling one of the ordinary skill in the art to make and use the invention. Simply put, it is directing the consumer to select a beverage at the point of purchase for purchase. Moreover, the Claims themselves state that the cues are presented at the point of purchase and direct a consumer to one or more types of coffee. Therefore, a person of skilled in the art would know how to make and use the present invention because the characterization cues are presented at the point of purchase and direct a consumer to select the type of coffee that the consumer thinks most accurately describes the consumer's desired coffee experience. Thus, since the consumer is at the point of purchase and is directed to select a type of coffee, the consumer has been directed to purchase a type of coffee. Respectfully, the Appellants have enabled one of ordinary skill in the art to make and use the invention.

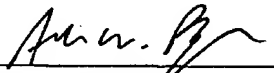
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CONCLUSION

In light of the above remarks, it is requested that the Board reconsider and overturn the rejections of the present claims. Early and favorable action in the case is respectfully requested.

Respectfully submitted,
For: PIOTROWSKI, *et al.*

By 
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Date: November 5, 2007
Customer No. 27752